

Senate Engrossed

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

# SENATE BILL 1143

AN ACT

AMENDING SECTIONS 42-5061 AND 42-5159, ARIZONA REVISED STATUTES; RELATING TO  
TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-5061, Arizona Revised Statutes, is amended to  
3 read:

4 42-5061. Retail classification: definitions

5 A. The retail classification is comprised of the business of selling  
6 tangible personal property at retail. The tax base for the retail  
7 classification is the gross proceeds of sales or gross income derived from  
8 the business. The tax imposed on the retail classification does not apply to  
9 the gross proceeds of sales or gross income from:

10 1. Professional or personal service occupations or businesses which  
11 involve sales or transfers of tangible personal property only as  
12 inconsequential elements.

13 2. Services rendered in addition to selling tangible personal property  
14 at retail.

15 3. Sales of warranty or service contracts. The storage, use or  
16 consumption of tangible personal property provided under the conditions of  
17 such contracts is subject to tax under section 42-5156.

18 4. Sales of tangible personal property by any nonprofit organization  
19 organized and operated exclusively for charitable purposes and recognized by  
20 the United States internal revenue service under section 501(c)(3) of the  
21 internal revenue code.

22 5. Sales to persons engaged in business classified under the  
23 restaurant classification of articles used by human beings for food, drink or  
24 condiment, whether simple, mixed or compounded.

25 6. Business activity which is properly included in any other business  
26 classification which is taxable under article 1 of this chapter.

27 7. The sale of stocks and bonds.

28 8. Drugs and medical oxygen, including delivery hose, mask or tent,  
29 regulator and tank, on the prescription of a member of the medical, dental or  
30 veterinarian profession who is licensed by law to administer such substances.

31 9. Prosthetic appliances as defined in section 23-501 AND PROSTHETIC  
32 DEVICES THAT ARE prescribed or recommended by a health professional WHO IS  
33 licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.  
34 PROSTHETIC DEVICES THAT ARE EXEMPT UNDER THIS PARAGRAPH SHALL BE FULLY EXEMPT  
35 AND NOT PARTIALLY EXEMPT FOR ANY REASON. FOR THE PURPOSES OF THIS PARAGRAPH,  
36 "PROSTHETIC DEVICES" INCLUDES EITHER OF THE FOLLOWING:

37 (a) A GASTRIC DEVICE THAT IS PLACED IN OR AROUND THE STOMACH THROUGH A  
38 MINIMALLY INVASIVE OR LAPAROSCOPIC SURGICAL PROCEDURE.

39 (b) A TISSUE EXPANDER THAT IS USED TO STIMULATE THE GROWTH OF NEW  
40 SKIN.

41 10. Insulin, insulin syringes and glucose test strips.

42 11. Prescription eyeglasses or contact lenses.

43 12. Hearing aids as defined in section 36-1901.

44 13. Durable medical equipment which has a centers for medicare and  
45 medicaid services common procedure code, is designated reimbursable by

1 medicare, is prescribed by a person who is licensed under title 32, chapter  
2 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
3 customarily used to serve a medical purpose, is generally not useful to a  
4 person in the absence of illness or injury and is appropriate for use in the  
5 home.

6 14. Sales to nonresidents of this state for use outside this state if  
7 the vendor ships or delivers the tangible personal property out of this  
8 state.

9 15. Food, as provided in and subject to the conditions of article 3 of  
10 this chapter and section 42-5074.

11 16. Items purchased with United States department of agriculture food  
12 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
13 958) or food instruments issued under section 17 of the child nutrition act  
14 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
15 section 1786).

16 17. Textbooks by any bookstore that are required by any state  
17 university or community college.

18 18. Food and drink to a person who is engaged in business which is  
19 classified under the restaurant classification and which provides such food  
20 and drink without monetary charge to its employees for their own consumption  
21 on the premises during the employees' hours of employment.

22 19. Articles of food, drink or condiment and accessory tangible  
23 personal property to a school district if such articles and accessory  
24 tangible personal property are to be prepared and served to persons for  
25 consumption on the premises of a public school within the district during  
26 school hours.

27 20. Lottery tickets or shares pursuant to title 5, chapter 5,  
28 article 1.

29 21. The sale of precious metal bullion and monetized bullion to the  
30 ultimate consumer, but the sale of coins or other forms of money for  
31 manufacture into jewelry or works of art is subject to the tax. For the  
32 purposes of this paragraph:

33 (a) "Monetized bullion" means coins and other forms of money which are  
34 manufactured from gold, silver or other metals and which have been or are  
35 used as a medium of exchange in this or another state, the United States or a  
36 foreign nation.

37 (b) "Precious metal bullion" means precious metal, including gold,  
38 silver, platinum, rhodium and palladium, which has been smelted or refined so  
39 that its value depends on its contents and not on its form.

40 22. Motor vehicle fuel and use fuel which are subject to a tax imposed  
41 under title 28, chapter 16, article 1, sales of use fuel to a holder of a  
42 valid single trip use fuel tax permit issued under section 28-5739, sales of  
43 aviation fuel which are subject to the tax imposed under section 28-8344 and  
44 sales of jet fuel which are subject to the tax imposed under article 8 of  
45 this chapter.

1       23. Tangible personal property sold to a person engaged in the business  
2 of leasing or renting such property under the personal property rental  
3 classification if such property is to be leased or rented by such person.

4       24. Tangible personal property sold in interstate or foreign commerce  
5 if prohibited from being so taxed by the Constitution of the United States or  
6 the constitution of this state.

7       25. Tangible personal property sold to:

8           (a) A qualifying hospital as defined in section 42-5001.

9           (b) A qualifying health care organization as defined in section  
10 42-5001 if the tangible personal property is used by the organization solely  
11 to provide health and medical related educational and charitable services.

12           (c) A qualifying health care organization as defined in section  
13 42-5001 if the organization is dedicated to providing educational,  
14 therapeutic, rehabilitative and family medical education training for blind,  
15 visually impaired and multihandicapped children from the time of birth to age  
16 twenty-one.

17           (d) A qualifying community health center as defined in section  
18 42-5001.

19           (e) A nonprofit charitable organization that has qualified under  
20 section 501(c)(3) of the internal revenue code and that regularly serves  
21 meals to the needy and indigent on a continuing basis at no cost.

22           (f) For taxable periods beginning from and after June 30, 2001, a  
23 nonprofit charitable organization that has qualified under section 501(c)(3)  
24 of the internal revenue code and that provides residential apartment housing  
25 for low income persons over sixty-two years of age in a facility that  
26 qualifies for a federal housing subsidy, if the tangible personal property is  
27 used by the organization solely to provide residential apartment housing for  
28 low income persons over sixty-two years of age in a facility that qualifies  
29 for a federal housing subsidy.

30       26. Magazines or other periodicals or other publications by this state  
31 to encourage tourist travel.

32       27. Tangible personal property sold to a person that is subject to tax  
33 under this article by reason of being engaged in business classified under  
34 the prime contracting classification under section 42-5075, or to a  
35 subcontractor working under the control of a prime contractor that is subject  
36 to tax under article 1 of this chapter, if the property so sold is any of the  
37 following:

38           (a) Incorporated or fabricated by the person into any real property,  
39 structure, project, development or improvement as part of the business.

40           (b) Used in environmental response or remediation activities under  
41 section 42-5075, subsection B, paragraph 6.

42           (c) Incorporated or fabricated by the person into any lake facility  
43 development in a commercial enhancement reuse district under conditions  
44 prescribed for the deduction allowed by section 42-5075, subsection B,  
45 paragraph 8.

1           28. The sale of a motor vehicle to:

2           (a) A nonresident of this state if the purchaser's state of residence  
3 does not allow a corresponding use tax exemption to the tax imposed by  
4 article 1 of this chapter and if the nonresident has secured a special ninety  
5 day nonresident registration permit for the vehicle as prescribed by sections  
6 28-2154 and 28-2154.01.

7           (b) An enrolled member of an Indian tribe who resides on the Indian  
8 reservation established for that tribe.

9           29. Tangible personal property purchased in this state by a nonprofit  
10 charitable organization that has qualified under section 501(c)(3) of the  
11 United States internal revenue code and that engages in and uses such  
12 property exclusively in programs for mentally or physically handicapped  
13 persons if the programs are exclusively for training, job placement,  
14 rehabilitation or testing.

15           30. Sales of tangible personal property by a nonprofit organization  
16 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)  
17 of the internal revenue code if the organization is associated with a major  
18 league baseball team or a national touring professional golfing association  
19 and no part of the organization's net earnings inures to the benefit of any  
20 private shareholder or individual.

21           31. Sales of commodities, as defined by title 7 United States Code  
22 section 2, that are consigned for resale in a warehouse in this state in or  
23 from which the commodity is deliverable on a contract for future delivery  
24 subject to the rules of a commodity market regulated by the United States  
25 commodity futures trading commission.

26           32. Sales of tangible personal property by a nonprofit organization  
27 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),  
28 501(c)(7) or 501(c)(8) of the internal revenue code if the organization  
29 sponsors or operates a rodeo featuring primarily farm and ranch animals and  
30 no part of the organization's net earnings inures to the benefit of any  
31 private shareholder or individual.

32           33. Sales of seeds, seedlings, roots, bulbs, cuttings and other  
33 propagative material to persons who use those items to commercially produce  
34 agricultural, horticultural, viticultural or floricultural crops in this  
35 state.

36           34. Machinery, equipment, technology or related supplies that are only  
37 useful to assist a person who is physically disabled as defined in section  
38 46-191, has a developmental disability as defined in section 36-551 or has a  
39 head injury as defined in section 41-3201 to be more independent and  
40 functional.

41           35. Sales of tangible personal property that is shipped or delivered  
42 directly to a destination outside the United States for use in that foreign  
43 country.

44           36. Sales of natural gas or liquefied petroleum gas used to propel a  
45 motor vehicle.

1        37. Paper machine clothing, such as forming fabrics and dryer felts,  
2 sold to a paper manufacturer and directly used or consumed in paper  
3 manufacturing.

4        38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
5 sold to a qualified environmental technology manufacturer, producer or  
6 processor as defined in section 41-1514.02 and directly used or consumed in  
7 the generation or provision of on-site power or energy solely for  
8 environmental technology manufacturing, producing or processing or  
9 environmental protection. This paragraph shall apply for fifteen full  
10 consecutive calendar or fiscal years from the date the first paper  
11 manufacturing machine is placed in service. In the case of an environmental  
12 technology manufacturer, producer or processor who does not manufacture  
13 paper, the time period shall begin with the date the first manufacturing,  
14 processing or production equipment is placed in service.

15        39. Sales of liquid, solid or gaseous chemicals used in manufacturing,  
16 processing, fabricating, mining, refining, metallurgical operations, research  
17 and development and, beginning on January 1, 1999, printing, if using or  
18 consuming the chemicals, alone or as part of an integrated system of  
19 chemicals, involves direct contact with the materials from which the product  
20 is produced for the purpose of causing or permitting a chemical or physical  
21 change to occur in the materials as part of the production process. This  
22 paragraph does not include chemicals that are used or consumed in activities  
23 such as packaging, storage or transportation but does not affect any  
24 deduction for such chemicals that is otherwise provided by this section. For  
25 the purposes of this paragraph, "printing" means a commercial printing  
26 operation and includes job printing, engraving, embossing, copying and  
27 bookbinding.

28        40. Through December 31, 1994, personal property liquidation  
29 transactions, conducted by a personal property liquidator. From and after  
30 December 31, 1994, personal property liquidation transactions shall be  
31 taxable under this section provided that nothing in this subsection shall be  
32 construed to authorize the taxation of casual activities or transactions  
33 under this chapter. For the purposes of this paragraph:

34        (a) "Personal property liquidation transaction" means a sale of  
35 personal property made by a personal property liquidator acting solely on  
36 behalf of the owner of the personal property sold at the dwelling of the  
37 owner or upon the death of any owner, on behalf of the surviving spouse, if  
38 any, any devisee or heir or the personal representative of the estate of the  
39 deceased, if one has been appointed.

40        (b) "Personal property liquidator" means a person who is retained to  
41 conduct a sale in a personal property liquidation transaction.

42        41. Sales of food, drink and condiment for consumption within the  
43 premises of any prison, jail or other institution under the jurisdiction of  
44 the state department of corrections, the department of public safety, the  
45 department of juvenile corrections or a county sheriff.

1       42. A motor vehicle and any repair and replacement parts and tangible  
2 personal property becoming a part of such motor vehicle sold to a motor  
3 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4  
4 and who is engaged in the business of leasing or renting such property.

5       43. Livestock and poultry feed, salts, vitamins and other additives for  
6 livestock or poultry consumption that are sold to persons who are engaged in  
7 producing livestock, poultry, or livestock or poultry products or who are  
8 engaged in feeding livestock or poultry commercially. For the purposes of  
9 this paragraph, "poultry" includes ratites.

10       44. Sales of implants used as growth promotants and injectable  
11 medicines, not already exempt under paragraph 8 of this subsection, for  
12 livestock or poultry owned by or in possession of persons who are engaged in  
13 producing livestock, poultry, or livestock or poultry products or who are  
14 engaged in feeding livestock or poultry commercially. For the purposes of  
15 this paragraph, "poultry" includes ratites.

16       45. Sales of motor vehicles at auction to nonresidents of this state  
17 for use outside this state if the vehicles are shipped or delivered out of  
18 this state, regardless of where title to the motor vehicles passes or its  
19 free on board point.

20       46. Tangible personal property sold to a person engaged in business and  
21 subject to tax under the transient lodging classification if the tangible  
22 personal property is a personal hygiene item or articles used by human beings  
23 for food, drink or condiment, except alcoholic beverages, which are furnished  
24 without additional charge to and intended to be consumed by the transient  
25 during the transient's occupancy.

26       47. Sales of alternative fuel, as defined in section 1-215, to a used  
27 oil fuel burner who has received a permit to burn used oil or used oil fuel  
28 under section 49-426 or 49-480.

29       48. Sales of materials that are purchased by or for publicly funded  
30 libraries including school district libraries, charter school libraries,  
31 community college libraries, state university libraries or federal, state,  
32 county or municipal libraries for use by the public as follows:

33       (a) Printed or photographic materials, beginning August 7, 1985.

34       (b) Electronic or digital media materials, beginning July 17, 1994.

35       49. Tangible personal property sold to a commercial airline and  
36 consisting of food, beverages and condiments and accessories used for serving  
37 the food and beverages, if those items are to be provided without additional  
38 charge to passengers for consumption in flight. For the purposes of this  
39 paragraph, "commercial airline" means a person holding a federal certificate  
40 of public convenience and necessity or foreign air carrier permit for air  
41 transportation to transport persons, property or United States mail in  
42 intrastate, interstate or foreign commerce.

43       50. Sales of alternative fuel vehicles if the vehicle was manufactured  
44 as a diesel fuel vehicle and converted to operate on alternative fuel and  
45 equipment that is installed in a conventional diesel fuel motor vehicle to

1 convert the vehicle to operate on an alternative fuel, as defined in section  
2 1-215.

3 51. Sales of any spirituous, vinous or malt liquor by a person that is  
4 licensed in this state as a wholesaler by the department of liquor licenses  
5 and control pursuant to title 4, chapter 2, article 1.

6 52. Sales of tangible personal property to be incorporated or installed  
7 as part of environmental response or remediation activities under section  
8 42-5075, subsection B, paragraph 6.

9 53. Sales of tangible personal property by a nonprofit organization  
10 that is exempt from taxation under section 501(c)(6) of the internal revenue  
11 code if the organization produces, organizes or promotes cultural or civic  
12 related festivals or events and no part of the organization's net earnings  
13 inures to the benefit of any private shareholder or individual.

14 54. Through August 31, 2014, sales of Arizona centennial medallions by  
15 the historical advisory commission.

16 B. In addition to the deductions from the tax base prescribed by  
17 subsection A of this section, the gross proceeds of sales or gross income  
18 derived from sales of the following categories of tangible personal property  
19 shall be deducted from the tax base:

20 1. Machinery, or equipment, used directly in manufacturing,  
21 processing, fabricating, job printing, refining or metallurgical operations.  
22 The terms "manufacturing", "processing", "fabricating", "job printing",  
23 "refining" and "metallurgical" as used in this paragraph refer to and include  
24 those operations commonly understood within their ordinary meaning.  
25 "Metallurgical operations" includes leaching, milling, precipitating,  
26 smelting and refining.

27 2. Mining machinery, or equipment, used directly in the process of  
28 extracting ores or minerals from the earth for commercial purposes, including  
29 equipment required to prepare the materials for extraction and handling,  
30 loading or transporting such extracted material to the surface. "Mining"  
31 includes underground, surface and open pit operations for extracting ores and  
32 minerals.

33 3. Tangible personal property sold to persons engaged in business  
34 classified under the telecommunications classification and consisting of  
35 central office switching equipment, switchboards, private branch exchange  
36 equipment, microwave radio equipment and carrier equipment including optical  
37 fiber, coaxial cable and other transmission media which are components of  
38 carrier systems.

39 4. Machinery, equipment or transmission lines used directly in  
40 producing or transmitting electrical power, but not including distribution.  
41 Transformers and control equipment used at transmission substation sites  
42 constitute equipment used in producing or transmitting electrical power.

43 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or  
44 to be used as breeding or production stock, including sales of breedings or  
45 ownership shares in such animals used for breeding or production.



1           6. Pipes or valves four inches in diameter or larger used to transport  
2 oil, natural gas, artificial gas, water or coal slurry, including compressor  
3 units, regulators, machinery and equipment, fittings, seals and any other  
4 part that is used in operating the pipes or valves.

5           7. Aircraft, navigational and communication instruments and other  
6 accessories and related equipment sold to:

7           (a) A person holding a federal certificate of public convenience and  
8 necessity, a supplemental air carrier certificate under federal aviation  
9 regulations (14 Code of Federal Regulations part 121) or a foreign air  
10 carrier permit for air transportation for use as or in conjunction with or  
11 becoming a part of aircraft to be used to transport persons, property or  
12 United States mail in intrastate, interstate or foreign commerce.

13           (b) Any foreign government for use by such government outside of this  
14 state.

15           (c) Persons who are not residents of this state and who will not use  
16 such property in this state other than in removing such property from this  
17 state. This subdivision also applies to corporations that are not  
18 incorporated in this state, regardless of maintaining a place of business in  
19 this state, if the principal corporate office is located outside this state  
20 and the property will not be used in this state other than in removing the  
21 property from this state.

22           8. Machinery, tools, equipment and related supplies used or consumed  
23 directly in repairing, remodeling or maintaining aircraft, aircraft engines  
24 or aircraft component parts by or on behalf of a certificated or licensed  
25 carrier of persons or property.

26           9. Railroad rolling stock, rails, ties and signal control equipment  
27 used directly to transport persons or property.

28           10. Machinery or equipment used directly to drill for oil or gas or  
29 used directly in the process of extracting oil or gas from the earth for  
30 commercial purposes.

31           11. Buses or other urban mass transit vehicles which are used directly  
32 to transport persons or property for hire or pursuant to a governmentally  
33 adopted and controlled urban mass transportation program and which are sold  
34 to bus companies holding a federal certificate of convenience and necessity  
35 or operated by any city, town or other governmental entity or by any person  
36 contracting with such governmental entity as part of a governmentally adopted  
37 and controlled program to provide urban mass transportation.

38           12. Groundwater measuring devices required under section 45-604.

39           13. New machinery and equipment consisting of tractors, tractor-drawn  
40 implements, self-powered implements, machinery and equipment necessary for  
41 extracting milk, and machinery and equipment necessary for cooling milk and  
42 livestock, and drip irrigation lines not already exempt under paragraph 6 of  
43 this subsection and that are used for commercial production of agricultural,  
44 horticultural, viticultural and floricultural crops and products in this  
45 state. For the purposes of this paragraph:

1 (a) "New machinery and equipment" means machinery and equipment which  
2 have never been sold at retail except pursuant to leases or rentals which do  
3 not total two years or more.

4 (b) "Self-powered implements" includes machinery and equipment that  
5 are electric-powered.

6 14. Machinery or equipment used in research and development. For the  
7 purposes of this paragraph, "research and development" means basic and  
8 applied research in the sciences and engineering, and designing, developing  
9 or testing prototypes, processes or new products, including research and  
10 development of computer software that is embedded in or an integral part of  
11 the prototype or new product or that is required for machinery or equipment  
12 otherwise exempt under this section to function effectively. Research and  
13 development do not include manufacturing quality control, routine consumer  
14 product testing, market research, sales promotion, sales service, research in  
15 social sciences or psychology, computer software research that is not  
16 included in the definition of research and development, or other  
17 nontechnological activities or technical services.

18 15. Machinery and equipment that are purchased by or on behalf of the  
19 owners of a soundstage complex and primarily used for motion picture,  
20 multimedia or interactive video production in the complex. This paragraph  
21 applies only if the initial construction of the soundstage complex begins  
22 after June 30, 1996 and before January 1, 2002 and the machinery and  
23 equipment are purchased before the expiration of five years after the start  
24 of initial construction. For the purposes of this paragraph:

25 (a) "Motion picture, multimedia or interactive video production"  
26 includes products for theatrical and television release, educational  
27 presentations, electronic retailing, documentaries, music videos, industrial  
28 films, CD-ROM, video game production, commercial advertising and television  
29 episode production and other genres that are introduced through developing  
30 technology.

31 (b) "Soundstage complex" means a facility of multiple stages including  
32 production offices, construction shops and related areas, prop and costume  
33 shops, storage areas, parking for production vehicles and areas that are  
34 leased to businesses that complement the production needs and orientation of  
35 the overall facility.

36 16. Tangible personal property that is used by either of the following  
37 to receive, store, convert, produce, generate, decode, encode, control or  
38 transmit telecommunications information:

39 (a) Any direct broadcast satellite television or data transmission  
40 service that operates pursuant to 47 Code of Federal Regulations parts 25 and  
41 100.

42 (b) Any satellite television or data transmission facility, if both of  
43 the following conditions are met:

44 (i) Over two-thirds of the transmissions, measured in megabytes,  
45 transmitted by the facility during the test period were transmitted to or on

1 behalf of one or more direct broadcast satellite television or data  
2 transmission services that operate pursuant to 47 Code of Federal Regulations  
3 parts 25 and 100.

4 (ii) Over two-thirds of the transmissions, measured in megabytes,  
5 transmitted by or on behalf of those direct broadcast television or data  
6 transmission services during the test period were transmitted by the facility  
7 to or on behalf of those services.

8 For the purposes of subdivision (b) of this paragraph, "test period" means  
9 the three hundred sixty-five day period beginning on the later of the date on  
10 which the tangible personal property is purchased or the date on which the  
11 direct broadcast satellite television or data transmission service first  
12 transmits information to its customers.

13 17. Clean rooms that are used for manufacturing, processing,  
14 fabrication or research and development, as defined in paragraph 14 of this  
15 subsection, of semiconductor products. For the purposes of this paragraph,  
16 "clean room" means all property that comprises or creates an environment  
17 where humidity, temperature, particulate matter and contamination are  
18 precisely controlled within specified parameters, without regard to whether  
19 the property is actually contained within that environment or whether any of  
20 the property is affixed to or incorporated into real property. Clean room:

21 (a) Includes the integrated systems, fixtures, piping, movable  
22 partitions, lighting and all property that is necessary or adapted to reduce  
23 contamination or to control airflow, temperature, humidity, chemical purity  
24 or other environmental conditions or manufacturing tolerances, as well as the  
25 production machinery and equipment operating in conjunction with the clean  
26 room environment.

27 (b) Does not include the building or other permanent, nonremovable  
28 component of the building that houses the clean room environment.

29 18. Machinery and equipment used directly in the feeding of poultry,  
30 the environmental control of housing for poultry, the movement of eggs within  
31 a production and packaging facility or the sorting or cooling of eggs. This  
32 exemption does not apply to vehicles used for transporting eggs.

33 19. Machinery or equipment, including related structural components,  
34 that is employed in connection with manufacturing, processing, fabricating,  
35 job printing, refining, mining, natural gas pipelines, metallurgical  
36 operations, telecommunications, producing or transmitting electricity or  
37 research and development and that is used directly to meet or exceed rules or  
38 regulations adopted by the federal energy regulatory commission, the United  
39 States environmental protection agency, the United States nuclear regulatory  
40 commission, the Arizona department of environmental quality or a political  
41 subdivision of this state to prevent, monitor, control or reduce land, water  
42 or air pollution.

43 20. Machinery and equipment that are sold to a person engaged in the  
44 commercial production of livestock, livestock products or agricultural,  
45 horticultural, viticultural or floricultural crops or products in this state

1 and that are used directly and primarily to prevent, monitor, control or  
2 reduce air, water or land pollution.

3 21. Machinery or equipment that enables a television station to  
4 originate and broadcast or to receive and broadcast digital television  
5 signals and that was purchased to facilitate compliance with the  
6 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States  
7 Code section 336) and the federal communications commission order issued  
8 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does  
9 not exempt any of the following:

10 (a) Repair or replacement parts purchased for the machinery or  
11 equipment described in this paragraph.

12 (b) Machinery or equipment purchased to replace machinery or equipment  
13 for which an exemption was previously claimed and taken under this paragraph.

14 (c) Any machinery or equipment purchased after the television station  
15 has ceased analog broadcasting, or purchased after November 1, 2009,  
16 whichever occurs first.

17 22. Qualifying equipment that is purchased from and after June 30, 2004  
18 through June 30, 2014 by a qualified business under section 41-1516 for  
19 harvesting or the initial processing of qualifying forest products removed  
20 from qualifying projects as defined in section 41-1516. To qualify for this  
21 deduction, the qualified business at the time of purchase must present its  
22 certification approved by the department.

23 23. Machinery, equipment and other tangible personal property used  
24 directly in motion picture production by a motion picture production company.  
25 To qualify for this deduction, at the time of purchase, the motion picture  
26 production company must present to the retailer its certificate that is  
27 issued pursuant to section 42-5009, subsection H and that establishes its  
28 qualification for the deduction.

29 C. The deductions provided by subsection B of this section do not  
30 include sales of:

31 1. Expendable materials. For the purposes of this paragraph,  
32 expendable materials do not include any of the categories of tangible  
33 personal property specified in subsection B of this section regardless of the  
34 cost or useful life of that property.

35 2. Janitorial equipment and hand tools.

36 3. Office equipment, furniture and supplies.

37 4. Tangible personal property used in selling or distributing  
38 activities, other than the telecommunications transmissions described in  
39 subsection B, paragraph 16 of this section.

40 5. Motor vehicles required to be licensed by this state, except buses  
41 or other urban mass transit vehicles specifically exempted pursuant to  
42 subsection B, paragraph 11 of this section, without regard to the use of such  
43 motor vehicles.

44 6. Shops, buildings, docks, depots and all other materials of whatever  
45 kind or character not specifically included as exempt.

1           7. Motors and pumps used in drip irrigation systems.

2           D. In addition to the deductions from the tax base prescribed by  
3 subsection A of this section, there shall be deducted from the tax base the  
4 gross proceeds of sales or gross income derived from sales of machinery,  
5 equipment, materials and other tangible personal property used directly and  
6 predominantly to construct a qualified environmental technology  
7 manufacturing, producing or processing facility as described in section  
8 41-1514.02. This subsection applies for ten full consecutive calendar or  
9 fiscal years after the start of initial construction.

10          E. In computing the tax base, gross proceeds of sales or gross income  
11 from retail sales of heavy trucks and trailers does not include any amount  
12 attributable to federal excise taxes imposed by 26 United States Code section  
13 4051.

14          F. In computing the tax base, gross proceeds of sales or gross income  
15 from the sale of use fuel, as defined in section 28-5601, does not include  
16 any amount attributable to federal excise taxes imposed by 26 United States  
17 Code section 4091.

18          G. If a person is engaged in an occupation or business to which  
19 subsection A of this section applies, the person's books shall be kept so as  
20 to show separately the gross proceeds of sales of tangible personal property  
21 and the gross income from sales of services, and if not so kept the tax shall  
22 be imposed on the total of the person's gross proceeds of sales of tangible  
23 personal property and gross income from services.

24          H. If a person is engaged in the business of selling tangible personal  
25 property at both wholesale and retail, the tax under this section applies  
26 only to the gross proceeds of the sales made other than at wholesale if the  
27 person's books are kept so as to show separately the gross proceeds of sales  
28 of each class, and if the books are not so kept, the tax under this section  
29 applies to the gross proceeds of every sale so made.

30          I. A person who engages in manufacturing, baling, crating, boxing,  
31 barreling, canning, bottling, sacking, preserving, processing or otherwise  
32 preparing for sale or commercial use any livestock, agricultural or  
33 horticultural product or any other product, article, substance or commodity  
34 and who sells the product of such business at retail in this state is deemed,  
35 as to such sales, to be engaged in business classified under the retail  
36 classification. This subsection does not apply to businesses classified  
37 under the:

- 38           1. Transporting classification.
- 39           2. Utilities classification.
- 40           3. Telecommunications classification.
- 41           4. Pipeline classification.
- 42           5. Private car line classification.
- 43           6. Publication classification.
- 44           7. Job printing classification.
- 45           8. Prime contracting classification.

1           9. Owner builder sales classification.

2           10. Restaurant classification.

3           J. The gross proceeds of sales or gross income derived from the  
4 following shall be deducted from the tax base for the retail classification:

5           1. Sales made directly to the United States government or its  
6 departments or agencies by a manufacturer, modifier, assembler or repairer.

7           2. Sales made directly to a manufacturer, modifier, assembler or  
8 repairer if such sales are of any ingredient or component part of products  
9 sold directly to the United States government or its departments or agencies  
10 by the manufacturer, modifier, assembler or repairer.

11           3. Overhead materials or other tangible personal property that is used  
12 in performing a contract between the United States government and a  
13 manufacturer, modifier, assembler or repairer, including property used in  
14 performing a subcontract with a government contractor who is a manufacturer,  
15 modifier, assembler or repairer, to which title passes to the government  
16 under the terms of the contract or subcontract.

17           4. Sales of overhead materials or other tangible personal property to  
18 a manufacturer, modifier, assembler or repairer if the gross proceeds of  
19 sales or gross income derived from the property by the manufacturer,  
20 modifier, assembler or repairer will be exempt under paragraph 3 of this  
21 subsection.

22           K. There shall be deducted from the tax base fifty per cent of the  
23 gross proceeds or gross income from any sale of tangible personal property  
24 made directly to the United States government or its departments or agencies,  
25 which is not deducted under subsection J of this section.

26           L. The department shall require every person claiming a deduction  
27 provided by subsection J or K of this section to file on forms prescribed by  
28 the department at such times as the department directs a sworn statement  
29 disclosing the name of the purchaser and the exact amount of sales on which  
30 the exclusion or deduction is claimed.

31           M. In computing the tax base, gross proceeds of sales or gross income  
32 does not include:

33           1. A manufacturer's cash rebate on the sales price of a motor vehicle  
34 if the buyer assigns the buyer's right in the rebate to the retailer.

35           2. The waste tire disposal fee imposed pursuant to section 44-1302.

36           N. There shall be deducted from the tax base the amount received from  
37 sales of solar energy devices. The retailer shall register with the  
38 department as a solar energy retailer. By registering, the retailer  
39 acknowledges that it will make its books and records relating to sales of  
40 solar energy devices available to the department for examination.

41           O. In computing the tax base in the case of the sale or transfer of  
42 wireless telecommunications equipment as an inducement to a customer to enter  
43 into or continue a contract for telecommunications services that are taxable  
44 under section 42-5064, gross proceeds of sales or gross income does not  
45 include any sales commissions or other compensation received by the retailer

1 as a result of the customer entering into or continuing a contract for the  
2 telecommunications services.

3 P. For the purposes of this section, a sale of wireless  
4 telecommunications equipment to a person who holds the equipment for sale or  
5 transfer to a customer as an inducement to enter into or continue a contract  
6 for telecommunications services that are taxable under section 42-5064 is  
7 considered to be a sale for resale in the regular course of business.

8 Q. Retail sales of prepaid calling cards or prepaid authorization  
9 numbers for telecommunications services, including sales of reauthorization  
10 of a prepaid card or authorization number, are subject to tax under this  
11 section.

12 R. For the purposes of this section, the diversion of gas from a  
13 pipeline by a person engaged in the business of:

14 1. Operating a natural or artificial gas pipeline, for the sole  
15 purpose of fueling compressor equipment to pressurize the pipeline, is not a  
16 sale of the gas to the operator of the pipeline.

17 2. Converting natural gas into liquefied natural gas, for the sole  
18 purpose of fueling compressor equipment used in the conversion process, is  
19 not a sale of gas to the operator of the compressor equipment.

20 S. If a seller is entitled to a deduction pursuant to subsection B,  
21 paragraph 16, subdivision (b) of this section, the department may require the  
22 purchaser to establish that the requirements of subsection B, paragraph 16,  
23 subdivision (b) of this section have been satisfied. If the purchaser cannot  
24 establish that the requirements of subsection B, paragraph 16, subdivision  
25 (b) of this section have been satisfied, the purchaser is liable in an amount  
26 equal to any tax, penalty and interest which the seller would have been  
27 required to pay under article 1 of this chapter if the seller had not made a  
28 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this  
29 section. Payment of the amount under this subsection exempts the purchaser  
30 from liability for any tax imposed under article 4 of this chapter and  
31 related to the tangible personal property purchased. The amount shall be  
32 treated as transaction privilege tax to the purchaser and as tax revenues  
33 collected from the seller to designate the distribution base pursuant to  
34 section 42-5029.

35 T. For the purposes of section 42-5032.01, the department shall  
36 separately account for revenues collected under the retail classification  
37 from businesses selling tangible personal property at retail:

38 1. On the premises of a multipurpose facility that is owned, leased or  
39 operated by the tourism and sports authority pursuant to title 5, chapter 8.

40 2. At professional football contests that are held in a stadium  
41 located on the campus of an institution under the jurisdiction of the Arizona  
42 board of regents.

43 U. In computing the tax base for the sale of a motor vehicle to a  
44 nonresident of this state, if the purchaser's state of residence allows a  
45 corresponding use tax exemption to the tax imposed by article 1 of this

chapter and the rate of the tax in the purchaser's state of residence is lower than the rate prescribed in article 1 of this chapter or if the purchaser's state of residence does not impose an excise tax, and the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall be deducted from the tax base a portion of the gross proceeds or gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

V. For the purposes of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

3. "Selling at retail" means a sale for any purpose other than for resale in the regular course of business in the form of tangible personal property, but transfer of possession, lease and rental as used in the definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

W. For the purposes of subsection J of this section:

1. "Assembler" means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance without changing or altering the component parts.

2. "Manufacturer" means a person who is principally engaged in the fabrication, production or manufacture of products, wares or articles for use from raw or prepared materials, imparting to those materials new forms, qualities, properties and combinations.

3. "Modifier" means a person who reworks, changes or adds to products, wares or articles of manufacture.

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, and which are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based upon generally accepted accounting principles and consistent with government contract accounting standards.

5. "Repairer" means a person who restores or renews products, wares or articles of manufacture.



1           6. "Subcontract" means an agreement between a contractor and any  
2 person who is not an employee of the contractor for furnishing of supplies or  
3 services that, in whole or in part, are necessary to the performance of one  
4 or more government contracts, or under which any portion of the contractor's  
5 obligation under one or more government contracts is performed, undertaken or  
6 assumed and that includes provisions causing title to overhead materials or  
7 other tangible personal property used in the performance of the subcontract  
8 to pass to the government or that includes provisions incorporating such  
9 title passing clauses in a government contract into the subcontract.

10          Sec. 2. Section 42-5159, Arizona Revised Statutes, is amended to read:  
11          42-5159. Exemptions

12          A. The tax levied by this article does not apply to the storage, use  
13 or consumption in this state of the following described tangible personal  
14 property:

15           1. Tangible personal property sold in this state, the gross receipts  
16 from the sale of which are included in the measure of the tax imposed by  
17 articles 1 and 2 of this chapter.

18           2. Tangible personal property the sale or use of which has already  
19 been subjected to an excise tax at a rate equal to or exceeding the tax  
20 imposed by this article under the laws of another state of the United States.  
21 If the excise tax imposed by the other state is at a rate less than the tax  
22 imposed by this article, the tax imposed by this article is reduced by the  
23 amount of the tax already imposed by the other state.

24           3. Tangible personal property, the storage, use or consumption of  
25 which the constitution or laws of the United States prohibit this state from  
26 taxing or to the extent that the rate or imposition of tax is  
27 unconstitutional under the laws of the United States.

28           4. Tangible personal property which directly enters into and becomes  
29 an ingredient or component part of any manufactured, fabricated or processed  
30 article, substance or commodity for sale in the regular course of business.

31           5. Motor vehicle fuel and use fuel, the sales, distribution or use of  
32 which in this state is subject to the tax imposed under title 28, chapter 16,  
33 article 1, use fuel which is sold to or used by a person holding a valid  
34 single trip use fuel tax permit issued under section 28-5739, aviation fuel,  
35 the sales, distribution or use of which in this state is subject to the tax  
36 imposed under section 28-8344, and jet fuel, the sales, distribution or use  
37 of which in this state is subject to the tax imposed under article 8 of this  
38 chapter.

39           6. Tangible personal property brought into this state by an individual  
40 who was a nonresident at the time the property was purchased for storage, use  
41 or consumption by the individual if the first actual use or consumption of  
42 the property was outside this state, unless the property is used in  
43 conducting a business in this state.

44           7. Purchases of implants used as growth promotants and injectable  
45 medicines, not already exempt under paragraph 16 of this subsection, for

1 livestock and poultry owned by, or in possession of, persons who are engaged  
2 in producing livestock, poultry, or livestock or poultry products, or who are  
3 engaged in feeding livestock or poultry commercially. For the purposes of  
4 this paragraph, "poultry" includes ratites.

5 8. Livestock, poultry, supplies, feed, salts, vitamins and other  
6 additives for use or consumption in the businesses of farming, ranching and  
7 feeding livestock or poultry, not including fertilizers, herbicides and  
8 insecticides. For the purposes of this paragraph, "poultry" includes  
9 ratites.

10 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative  
11 material for use in commercially producing agricultural, horticultural,  
12 viticultural or floricultural crops in this state.

13 10. Tangible personal property not exceeding two hundred dollars in any  
14 one month purchased by an individual at retail outside the continental limits  
15 of the United States for the individual's own personal use and enjoyment.

16 11. Advertising supplements which are intended for sale with newspapers  
17 published in this state and which have already been subjected to an excise  
18 tax under the laws of another state in the United States which equals or  
19 exceeds the tax imposed by this article.

20 12. Materials that are purchased by or for publicly funded libraries  
21 including school district libraries, charter school libraries, community  
22 college libraries, state university libraries or federal, state, county or  
23 municipal libraries for use by the public as follows:

24 (a) Printed or photographic materials, beginning August 7, 1985.

25 (b) Electronic or digital media materials, beginning July 17, 1994.

26 13. Tangible personal property purchased by:

27 (a) A hospital organized and operated exclusively for charitable  
28 purposes, no part of the net earnings of which inures to the benefit of any  
29 private shareholder or individual.

30 (b) A hospital operated by this state or a political subdivision of  
31 this state.

32 (c) A licensed nursing care institution or a licensed residential care  
33 institution or a residential care facility operated in conjunction with a  
34 licensed nursing care institution or a licensed kidney dialysis center, which  
35 provides medical services, nursing services or health related services and is  
36 not used or held for profit.

37 (d) A qualifying health care organization, as defined in section  
38 42-5001, if the tangible personal property is used by the organization solely  
39 to provide health and medical related educational and charitable services.

40 (e) A qualifying health care organization as defined in section  
41 42-5001 if the organization is dedicated to providing educational,  
42 therapeutic, rehabilitative and family medical education training for blind,  
43 visually impaired and multihandicapped children from the time of birth to age  
44 twenty-one.

1 (f) A nonprofit charitable organization that has qualified under  
2 section 501(c)(3) of the United States internal revenue code and that engages  
3 in and uses such property exclusively in programs for mentally or physically  
4 handicapped persons if the programs are exclusively for training, job  
5 placement, rehabilitation or testing.

6 (g) A person that is subject to tax under article 1 of this chapter by  
7 reason of being engaged in business classified under the prime contracting  
8 classification under section 42-5075, or a subcontractor working under the  
9 control of a prime contractor, if the tangible personal property is any of  
10 the following:

11 (i) Incorporated or fabricated by the contractor into a structure,  
12 project, development or improvement in fulfillment of a contract.

13 (ii) Used in environmental response or remediation activities under  
14 section 42-5075, subsection B, paragraph 6.

15 (iii) Incorporated or fabricated by the person into any lake facility  
16 development in a commercial enhancement reuse district under conditions  
17 prescribed for the deduction allowed by section 42-5075, subsection B,  
18 paragraph 8.

19 (h) A nonprofit charitable organization that has qualified under  
20 section 501(c)(3) of the internal revenue code if the property is purchased  
21 from the parent or an affiliate organization that is located outside this  
22 state.

23 (i) A qualifying community health center as defined in section  
24 42-5001.

25 (j) A nonprofit charitable organization that has qualified under  
26 section 501(c)(3) of the internal revenue code and that regularly serves  
27 meals to the needy and indigent on a continuing basis at no cost.

28 (k) A person engaged in business under the transient lodging  
29 classification if the property is a personal hygiene item or articles used by  
30 human beings for food, drink or condiment, except alcoholic beverages, which  
31 are furnished without additional charge to and intended to be consumed by the  
32 transient during the transient's occupancy.

33 (l) For taxable periods beginning from and after June 30, 2001, a  
34 nonprofit charitable organization that has qualified under section 501(c)(3)  
35 of the internal revenue code and that provides residential apartment housing  
36 for low income persons over sixty-two years of age in a facility that  
37 qualifies for a federal housing subsidy, if the tangible personal property is  
38 used by the organization solely to provide residential apartment housing for  
39 low income persons over sixty-two years of age in a facility that qualifies  
40 for a federal housing subsidy.

41 14. Commodities, as defined by title 7 United States Code section 2,  
42 that are consigned for resale in a warehouse in this state in or from which  
43 the commodity is deliverable on a contract for future delivery subject to the  
44 rules of a commodity market regulated by the United States commodity futures  
45 trading commission.

1           15. Tangible personal property sold by:

2           (a) Any nonprofit organization organized and operated exclusively for  
3 charitable purposes and recognized by the United States internal revenue  
4 service under section 501(c)(3) of the internal revenue code.

5           (b) A nonprofit organization that is exempt from taxation under  
6 section 501(c)(3) or 501(c)(6) of the internal revenue code if the  
7 organization is associated with a major league baseball team or a national  
8 touring professional golfing association and no part of the organization's  
9 net earnings inures to the benefit of any private shareholder or individual.

10          (c) A nonprofit organization that is exempt from taxation under  
11 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the  
12 internal revenue code if the organization sponsors or operates a rodeo  
13 featuring primarily farm and ranch animals and no part of the organization's  
14 net earnings inures to the benefit of any private shareholder or individual.

15          16. Drugs and medical oxygen, including delivery hose, mask or tent,  
16 regulator and tank, on the prescription of a member of the medical, dental or  
17 veterinarian profession who is licensed by law to administer such substances.

18          17. Prosthetic appliances, ~~as defined in section 23-501, AND~~  
19 ~~PROSTHETIC DEVICES THAT ARE~~ prescribed or recommended by ~~a person~~ A HEALTH  
20 PROFESSIONAL who is licensed, ~~registered or otherwise professionally~~  
21 ~~credentialed as a physician, dentist, podiatrist, chiropractor, naturopath,~~  
22 ~~homeopath, nurse or optometrist~~ PURSUANT TO TITLE 32, CHAPTER 7, 8, 11, 13,  
23 14, 15, 16, 17 OR 29. PROSTHETIC DEVICES THAT ARE EXEMPT UNDER THIS  
24 PARAGRAPH SHALL BE FULLY EXEMPT AND NOT PARTIALLY EXEMPT FOR ANY REASON. FOR  
25 THE PURPOSES OF THIS PARAGRAPH, "PROSTHETIC DEVICES" INCLUDES EITHER OF THE  
26 FOLLOWING:

27          (a) A GASTRIC DEVICE THAT IS PLACED IN OR AROUND THE STOMACH THROUGH A  
28 MINIMALLY INVASIVE OR LAPAROSCOPIC SURGICAL PROCEDURE.

29          (b) A TISSUE EXPANDER THAT IS USED TO STIMULATE THE GROWTH OF NEW  
30 SKIN.

31          18. Prescription eyeglasses and contact lenses.

32          19. Insulin, insulin syringes and glucose test strips.

33          20. Hearing aids as defined in section 36-1901.

34          21. Durable medical equipment which has a centers for medicare and  
35 medicaid services common procedure code, is designated reimbursable by  
36 medicare, is prescribed by a person who is licensed under title 32, chapter  
37 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily  
38 used to serve a medical purpose, is generally not useful to a person in the  
39 absence of illness or injury and is appropriate for use in the home.

40          22. Food, as provided in and subject to the conditions of article 3 of  
41 this chapter and section 42-5074.

42          23. Items purchased with United States department of agriculture food  
43 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
44 958) or food instruments issued under section 17 of the child nutrition act

1 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
2 section 1786).

3 24. Food and drink provided without monetary charge by a taxpayer which  
4 is subject to section 42-5074 to its employees for their own consumption on  
5 the premises during the employees' hours of employment.

6 25. Tangible personal property that is used or consumed in a business  
7 subject to section 42-5074 for human food, drink or condiment, whether  
8 simple, mixed or compounded.

9 26. Food, drink or condiment and accessory tangible personal property  
10 that are acquired for use by or provided to a school district or charter  
11 school if they are to be either served or prepared and served to persons for  
12 consumption on the premises of a public school in a school district during  
13 school hours.

14 27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,  
15 article 1.

16 28. Textbooks, sold by a bookstore, that are required by any state  
17 university or community college.

18 29. Magazines, other periodicals or other publications produced by this  
19 state to encourage tourist travel.

20 30. Paper machine clothing, such as forming fabrics and dryer felts,  
21 purchased by a paper manufacturer and directly used or consumed in paper  
22 manufacturing.

23 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
24 purchased by a qualified environmental technology manufacturer, producer or  
25 processor as defined in section 41-1514.02 and directly used or consumed in  
26 the generation or provision of on-site power or energy solely for  
27 environmental technology manufacturing, producing or processing or  
28 environmental protection. This paragraph shall apply for fifteen full  
29 consecutive calendar or fiscal years from the date the first paper  
30 manufacturing machine is placed in service. In the case of an environmental  
31 technology manufacturer, producer or processor who does not manufacture  
32 paper, the time period shall begin with the date the first manufacturing,  
33 processing or production equipment is placed in service.

34 32. Motor vehicles that are removed from inventory by a motor vehicle  
35 dealer as defined in section 28-4301 and that are provided to:

36 (a) Charitable or educational institutions that are exempt from  
37 taxation under section 501(c)(3) of the internal revenue code.

38 (b) Public educational institutions.

39 (c) State universities or affiliated organizations of a state  
40 university if no part of the organization's net earnings inures to the  
41 benefit of any private shareholder or individual.

42 33. Natural gas or liquefied petroleum gas used to propel a motor  
43 vehicle.

44 34. Machinery, equipment, technology or related supplies that are only  
45 useful to assist a person who is physically disabled as defined in section

1 46-191, has a developmental disability as defined in section 36-551 or has a  
2 head injury as defined in section 41-3201 to be more independent and  
3 functional.

4 35. Liquid, solid or gaseous chemicals used in manufacturing,  
5 processing, fabricating, mining, refining, metallurgical operations, research  
6 and development and, beginning on January 1, 1999, printing, if using or  
7 consuming the chemicals, alone or as part of an integrated system of  
8 chemicals, involves direct contact with the materials from which the product  
9 is produced for the purpose of causing or permitting a chemical or physical  
10 change to occur in the materials as part of the production process. This  
11 paragraph does not include chemicals that are used or consumed in activities  
12 such as packaging, storage or transportation but does not affect any  
13 exemption for such chemicals that is otherwise provided by this section. For  
14 the purposes of this paragraph, "printing" means a commercial printing  
15 operation and includes job printing, engraving, embossing, copying and  
16 bookbinding.

17 36. Food, drink and condiment purchased for consumption within the  
18 premises of any prison, jail or other institution under the jurisdiction of  
19 the state department of corrections, the department of public safety, the  
20 department of juvenile corrections or a county sheriff.

21 37. A motor vehicle and any repair and replacement parts and tangible  
22 personal property becoming a part of such motor vehicle sold to a motor  
23 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4  
24 and who is engaged in the business of leasing or renting such property.

25 38. Tangible personal property which is or directly enters into and  
26 becomes an ingredient or component part of cards used as prescription plan  
27 identification cards.

28 39. Overhead materials or other tangible personal property that is used  
29 in performing a contract between the United States government and a  
30 manufacturer, modifier, assembler or repairer, including property used in  
31 performing a subcontract with a government contractor who is a manufacturer,  
32 modifier, assembler or repairer, to which title passes to the government  
33 under the terms of the contract or subcontract. For the purposes of this  
34 paragraph:

35 (a) "Overhead materials" means tangible personal property, the gross  
36 proceeds of sales or gross income derived from which would otherwise be  
37 included in the retail classification, and which are used or consumed in the  
38 performance of a contract, the cost of which is charged to an overhead  
39 expense account and allocated to various contracts based upon generally  
40 accepted accounting principles and consistent with government contract  
41 accounting standards.

42 (b) "Subcontract" means an agreement between a contractor and any  
43 person who is not an employee of the contractor for furnishing of supplies or  
44 services that, in whole or in part, are necessary to the performance of one  
45 or more government contracts, or under which any portion of the contractor's

1 obligation under one or more government contracts is performed, undertaken or  
2 assumed, and that includes provisions causing title to overhead materials or  
3 other tangible personal property used in the performance of the subcontract  
4 to pass to the government or that includes provisions incorporating such  
5 title passing clauses in a government contract into the subcontract.

6 40. Through December 31, 1994, tangible personal property sold pursuant  
7 to a personal property liquidation transaction, as defined in section  
8 42-5061. From and after December 31, 1994, tangible personal property sold  
9 pursuant to a personal property liquidation transaction, as defined in  
10 section 42-5061, if the gross proceeds of the sales were included in the  
11 measure of the tax imposed by article 1 of this chapter or if the personal  
12 property liquidation was a casual activity or transaction.

13 41. Wireless telecommunications equipment that is held for sale or  
14 transfer to a customer as an inducement to enter into or continue a contract  
15 for telecommunications services that are taxable under section 42-5064.

16 42. Alternative fuel, as defined in section 1-215, purchased by a used  
17 oil fuel burner who has received a permit to burn used oil or used oil fuel  
18 under section 49-426 or 49-480.

19 43. Tangible personal property purchased by a commercial airline and  
20 consisting of food, beverages and condiments and accessories used for serving  
21 the food and beverages, if those items are to be provided without additional  
22 charge to passengers for consumption in flight. For the purposes of this  
23 paragraph, "commercial airline" means a person holding a federal certificate  
24 of public convenience and necessity or foreign air carrier permit for air  
25 transportation to transport persons, property or United States mail in  
26 intrastate, interstate or foreign commerce.

27 44. Alternative fuel vehicles if the vehicle was manufactured as a  
28 diesel fuel vehicle and converted to operate on alternative fuel and  
29 equipment that is installed in a conventional diesel fuel motor vehicle to  
30 convert the vehicle to operate on an alternative fuel, as defined in section  
31 1-215.

32 45. Gas diverted from a pipeline, by a person engaged in the business  
33 of:

34 (a) Operating a natural or artificial gas pipeline, and used or  
35 consumed for the sole purpose of fueling compressor equipment that  
36 pressurizes the pipeline.

37 (b) Converting natural gas into liquefied natural gas, and used or  
38 consumed for the sole purpose of fueling compressor equipment used in the  
39 conversion process.

40 46. Tangible personal property that is excluded, exempt or deductible  
41 from transaction privilege tax pursuant to section 42-5063.

42 47. Tangible personal property purchased to be incorporated or  
43 installed as part of environmental response or remediation activities under  
44 section 42-5075, subsection B, paragraph 6.

1       48. Tangible personal property sold by a nonprofit organization that is  
2 exempt from taxation under section 501(c)(6) of the internal revenue code if  
3 the organization produces, organizes or promotes cultural or civic related  
4 festivals or events and no part of the organization's net earnings inures to  
5 the benefit of any private shareholder or individual.

6       49. Prepared food, drink or condiment donated by a restaurant as  
7 classified in section 42-5074, subsection A to a nonprofit charitable  
8 organization that has qualified under section 501(c)(3) of the internal  
9 revenue code and that regularly serves meals to the needy and indigent on a  
10 continuing basis at no cost.

11       B. In addition to the exemptions allowed by subsection A of this  
12 section, the following categories of tangible personal property are also  
13 exempt:

14       1. Machinery, or equipment, used directly in manufacturing,  
15 processing, fabricating, job printing, refining or metallurgical operations.  
16 The terms "manufacturing", "processing", "fabricating", "job printing",  
17 "refining" and "metallurgical" as used in this paragraph refer to and include  
18 those operations commonly understood within their ordinary meaning.  
19 "Metallurgical operations" includes leaching, milling, precipitating,  
20 smelting and refining.

21       2. Machinery, or equipment, used directly in the process of extracting  
22 ores or minerals from the earth for commercial purposes, including equipment  
23 required to prepare the materials for extraction and handling, loading or  
24 transporting such extracted material to the surface. "Mining" includes  
25 underground, surface and open pit operations for extracting ores and  
26 minerals.

27       3. Tangible personal property sold to persons engaged in business  
28 classified under the telecommunications classification under section 42-5064  
29 and consisting of central office switching equipment, switchboards, private  
30 branch exchange equipment, microwave radio equipment and carrier equipment  
31 including optical fiber, coaxial cable and other transmission media which are  
32 components of carrier systems.

33       4. Machinery, equipment or transmission lines used directly in  
34 producing or transmitting electrical power, but not including distribution.  
35 Transformers and control equipment used at transmission substation sites  
36 constitute equipment used in producing or transmitting electrical power.

37       5. Neat animals, horses, asses, sheep, ratites, swine or goats used or  
38 to be used as breeding or production stock, including sales of breedings or  
39 ownership shares in such animals used for breeding or production.

40       6. Pipes or valves four inches in diameter or larger used to transport  
41 oil, natural gas, artificial gas, water or coal slurry, including compressor  
42 units, regulators, machinery and equipment, fittings, seals and any other  
43 part that is used in operating the pipes or valves.

44       7. Aircraft, navigational and communication instruments and other  
45 accessories and related equipment sold to:



1 (a) A person holding a federal certificate of public convenience and  
2 necessity, a supplemental air carrier certificate under federal aviation  
3 regulations (14 Code of Federal Regulations part 121) or a foreign air  
4 carrier permit for air transportation for use as or in conjunction with or  
5 becoming a part of aircraft to be used to transport persons, property or  
6 United States mail in intrastate, interstate or foreign commerce.

7 (b) Any foreign government for use by such government outside of this  
8 state, or sold to persons who are not residents of this state and who will  
9 not use such property in this state other than in removing such property from  
10 this state.

11 8. Machinery, tools, equipment and related supplies used or consumed  
12 directly in repairing, remodeling or maintaining aircraft, aircraft engines  
13 or aircraft component parts by or on behalf of a certificated or licensed  
14 carrier of persons or property.

15 9. Rolling stock, rails, ties and signal control equipment used  
16 directly to transport persons or property.

17 10. Machinery or equipment used directly to drill for oil or gas or  
18 used directly in the process of extracting oil or gas from the earth for  
19 commercial purposes.

20 11. Buses or other urban mass transit vehicles which are used directly  
21 to transport persons or property for hire or pursuant to a governmentally  
22 adopted and controlled urban mass transportation program and which are sold  
23 to bus companies holding a federal certificate of convenience and necessity  
24 or operated by any city, town or other governmental entity or by any person  
25 contracting with such governmental entity as part of a governmentally adopted  
26 and controlled program to provide urban mass transportation.

27 12. Groundwater measuring devices required under section 45-604.

28 13. New machinery and equipment consisting of tractors, tractor-drawn  
29 implements, self-powered implements, machinery and equipment necessary for  
30 extracting milk, and machinery and equipment necessary for cooling milk and  
31 livestock, and drip irrigation lines not already exempt under paragraph 6 of  
32 this subsection and that are used for commercial production of agricultural,  
33 horticultural, viticultural and floricultural crops and products in this  
34 state. For the purposes of this paragraph:

35 (a) "New machinery and equipment" means machinery or equipment which  
36 has never been sold at retail except pursuant to leases or rentals which do  
37 not total two years or more.

38 (b) "Self-powered implements" includes machinery and equipment that  
39 are electric-powered.

40 14. Machinery or equipment used in research and development. For the  
41 purposes of this paragraph, "research and development" means basic and  
42 applied research in the sciences and engineering, and designing, developing  
43 or testing prototypes, processes or new products, including research and  
44 development of computer software that is embedded in or an integral part of  
45 the prototype or new product or that is required for machinery or equipment

1 otherwise exempt under this section to function effectively. Research and  
2 development do not include manufacturing quality control, routine consumer  
3 product testing, market research, sales promotion, sales service, research in  
4 social sciences or psychology, computer software research that is not  
5 included in the definition of research and development, or other  
6 nontechnological activities or technical services.

7 15. Machinery and equipment that are purchased by or on behalf of the  
8 owners of a soundstage complex and primarily used for motion picture,  
9 multimedia or interactive video production in the complex. This paragraph  
10 applies only if the initial construction of the soundstage complex begins  
11 after June 30, 1996 and before January 1, 2002 and the machinery and  
12 equipment are purchased before the expiration of five years after the start  
13 of initial construction. For the purposes of this paragraph:

14 (a) "Motion picture, multimedia or interactive video production"  
15 includes products for theatrical and television release, educational  
16 presentations, electronic retailing, documentaries, music videos, industrial  
17 films, CD-ROM, video game production, commercial advertising and television  
18 episode production and other genres that are introduced through developing  
19 technology.

20 (b) "Soundstage complex" means a facility of multiple stages including  
21 production offices, construction shops and related areas, prop and costume  
22 shops, storage areas, parking for production vehicles and areas that are  
23 leased to businesses that complement the production needs and orientation of  
24 the overall facility.

25 16. Tangible personal property that is used by either of the following  
26 to receive, store, convert, produce, generate, decode, encode, control or  
27 transmit telecommunications information:

28 (a) Any direct broadcast satellite television or data transmission  
29 service that operates pursuant to 47 Code of Federal Regulations parts 25 and  
30 100.

31 (b) Any satellite television or data transmission facility, if both of  
32 the following conditions are met:

33 (i) Over two-thirds of the transmissions, measured in megabytes,  
34 transmitted by the facility during the test period were transmitted to or on  
35 behalf of one or more direct broadcast satellite television or data  
36 transmission services that operate pursuant to 47 Code of Federal Regulations  
37 parts 25 and 100.

38 (ii) Over two-thirds of the transmissions, measured in megabytes,  
39 transmitted by or on behalf of those direct broadcast television or data  
40 transmission services during the test period were transmitted by the facility  
41 to or on behalf of those services.

42 For the purposes of subdivision (b) of this paragraph, "test period" means  
43 the three hundred sixty-five day period beginning on the later of the date on  
44 which the tangible personal property is purchased or the date on which the

1 direct broadcast satellite television or data transmission service first  
2 transmits information to its customers.

3 17. Clean rooms that are used for manufacturing, processing,  
4 fabrication or research and development, as defined in paragraph 14 of this  
5 subsection, of semiconductor products. For the purposes of this paragraph,  
6 "clean room" means all property that comprises or creates an environment  
7 where humidity, temperature, particulate matter and contamination are  
8 precisely controlled within specified parameters, without regard to whether  
9 the property is actually contained within that environment or whether any of  
10 the property is affixed to or incorporated into real property. Clean room:

11 (a) Includes the integrated systems, fixtures, piping, movable  
12 partitions, lighting and all property that is necessary or adapted to reduce  
13 contamination or to control airflow, temperature, humidity, chemical purity  
14 or other environmental conditions or manufacturing tolerances, as well as the  
15 production machinery and equipment operating in conjunction with the clean  
16 room environment.

17 (b) Does not include the building or other permanent, nonremovable  
18 component of the building that houses the clean room environment.

19 18. Machinery and equipment that are used directly in the feeding of  
20 poultry, the environmental control of housing for poultry, the movement of  
21 eggs within a production and packaging facility or the sorting or cooling of  
22 eggs. This exemption does not apply to vehicles used for transporting eggs.

23 19. Machinery or equipment, including related structural components,  
24 that is employed in connection with manufacturing, processing, fabricating,  
25 job printing, refining, mining, natural gas pipelines, metallurgical  
26 operations, telecommunications, producing or transmitting electricity or  
27 research and development and that is used directly to meet or exceed rules or  
28 regulations adopted by the federal energy regulatory commission, the United  
29 States environmental protection agency, the United States nuclear regulatory  
30 commission, the Arizona department of environmental quality or a political  
31 subdivision of this state to prevent, monitor, control or reduce land, water  
32 or air pollution.

33 20. Machinery and equipment that are used in the commercial production  
34 of livestock, livestock products or agricultural, horticultural, viticultural  
35 or floricultural crops or products in this state and that are used directly  
36 and primarily to prevent, monitor, control or reduce air, water or land  
37 pollution.

38 21. Machinery or equipment that enables a television station to  
39 originate and broadcast or to receive and broadcast digital television  
40 signals and that was purchased to facilitate compliance with the  
41 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States  
42 Code section 336) and the federal communications commission order issued  
43 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does  
44 not exempt any of the following:

1 (a) Repair or replacement parts purchased for the machinery or  
2 equipment described in this paragraph.

3 (b) Machinery or equipment purchased to replace machinery or equipment  
4 for which an exemption was previously claimed and taken under this paragraph.

5 (c) Any machinery or equipment purchased after the television station  
6 has ceased analog broadcasting, or purchased after November 1, 2009,  
7 whichever occurs first.

8 22. Qualifying equipment that is purchased from and after June 30, 2004  
9 through June 30, 2014 by a qualified business under section 41-1516 for  
10 harvesting or the initial processing of qualifying forest products removed  
11 from qualifying projects as defined in section 41-1516. To qualify for this  
12 exemption, the qualified business must obtain and present its certification  
13 from the department of commerce at the time of purchase.

14 23. Machinery, equipment and other tangible personal property used  
15 directly in motion picture production by a motion picture production company.  
16 To qualify for this exemption, at the time of purchase, the motion picture  
17 production company must present to the retailer its certificate that is  
18 issued pursuant to section 42-5009, subsection H and that establishes its  
19 qualification for the exemption.

20 C. The exemptions provided by subsection B of this section do not  
21 include:

22 1. Expendable materials. For the purposes of this paragraph,  
23 expendable materials do not include any of the categories of tangible  
24 personal property specified in subsection B of this section regardless of the  
25 cost or useful life of that property.

26 2. Janitorial equipment and hand tools.

27 3. Office equipment, furniture and supplies.

28 4. Tangible personal property used in selling or distributing  
29 activities, other than the telecommunications transmissions described in  
30 subsection B, paragraph 16 of this section.

31 5. Motor vehicles required to be licensed by this state, except buses  
32 or other urban mass transit vehicles specifically exempted pursuant to  
33 subsection B, paragraph 11 of this section, without regard to the use of such  
34 motor vehicles.

35 6. Shops, buildings, docks, depots and all other materials of whatever  
36 kind or character not specifically included as exempt.

37 7. Motors and pumps used in drip irrigation systems.

38 D. The following shall be deducted in computing the purchase price of  
39 electricity by a retail electric customer from a utility business:

40 1. Revenues received from sales of ancillary services, electric  
41 distribution services, electric generation services, electric transmission  
42 services and other services related to providing electricity to a retail  
43 electric customer who is located outside this state for use outside this  
44 state if the electricity is delivered to a point of sale outside this state.

1           2. Revenues received from providing electricity, including ancillary  
2 services, electric distribution services, electric generation services,  
3 electric transmission services and other services related to providing  
4 electricity with respect to which the transaction privilege tax imposed under  
5 section 42-5063 has been paid.

6           E. The tax levied by this article does not apply to:

7           1. The storage, use or consumption in Arizona of machinery, equipment,  
8 materials or other tangible personal property if used directly and  
9 predominantly to construct a qualified environmental technology  
10 manufacturing, producing or processing facility, as described in section  
11 41-1514.02. This paragraph applies for ten full consecutive calendar or  
12 fiscal years after the start of initial construction.

13           2. The purchase of electricity by a qualified environmental technology  
14 manufacturer, producer or processor as defined in section 41-1514.02 that is  
15 used directly in environmental technology manufacturing, producing or  
16 processing. This paragraph shall apply for fifteen full consecutive calendar  
17 or fiscal years from the date the first paper manufacturing machine is placed  
18 in service. In the case of an environmental technology manufacturer,  
19 producer or processor who does not manufacture paper, the time period shall  
20 begin with the date the first manufacturing, processing or production  
21 equipment is placed in service.

22           F. The following shall be deducted in computing the purchase price of  
23 electricity by a retail electric customer from a utility business:

24           1. Fees charged by a municipally owned utility to persons constructing  
25 residential, commercial or industrial developments or connecting residential,  
26 commercial or industrial developments to a municipal utility system or  
27 systems if the fees are segregated and used only for capital expansion,  
28 system enlargement or debt service of the utility system or systems.

29           2. Reimbursement or contribution compensation to any person or persons  
30 owning a utility system for property and equipment installed to provide  
31 utility access to, on or across the land of an actual utility consumer if the  
32 property and equipment become the property of the utility. This deduction  
33 shall not exceed the value of such property and equipment.

34           G. For the purposes of subsection B of this section:

35           1. "Aircraft" includes:

36           (a) An airplane flight simulator that is approved by the federal  
37 aviation administration for use as a phase II or higher flight simulator  
38 under appendix H, 14 Code of Federal Regulations part 121.

39           (b) Tangible personal property that is permanently affixed or attached  
40 as a component part of an aircraft that is owned or operated by a  
41 certificated or licensed carrier of persons or property.

42           2. "Other accessories and related equipment" includes aircraft  
43 accessories and equipment such as ground service equipment that physically  
44 contact aircraft at some point during the overall carrier operation.

1           H. For the purposes of subsection D of this section, "ancillary  
2 services", "electric distribution service", "electric generation service",  
3 "electric transmission service" and "other services" have the same meanings  
4 prescribed in section 42-5063.